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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/964,891	HENDRICKS, JOHN S.	
	Examiner	Art Unit	
	JAMES SHELEHEDA	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 November 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16,19-25,27 and 30-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16,19-25,27 and 30-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/30/09 has been entered.

Specification

2. The disclosure is objected to because of the following informalities:

Page 10, lines 31, of the specification appears to cut off mid-sentence.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-16, 19-21 and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1 and 8 recite an interface to receive a "single signal comprising a composite data stream" and a hardware upgrade port that provides "simultaneous access to audio programs received in the composite data stream, wherein a presentation of the audio programs by the upgrade circuitry is independent from the presentation of the audiovisual program" which is not supported by applicant's specification as originally filed. While the specification discloses a "digital radio tuner" upgrade which will allow access to digital radio channels (page 36, lines 7-12), this digital radio tuner upgrade includes a separate tuner to tune to the digital radio channels (see page 36, lines 7-12). The specification is silent as to any particular means receive a single signal comprising both audio programs and audiovisual programming ***and*** provide separate access to the audio. The digital radio upgrade utilizes a separate *tuner* to access digital radio channels, and is not specifically disclosed as providing access to audio which is transmitted in a single signal with video content.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (5,410,326) (of record) in view of Graczyk et al. (Graczyk) (5,192,999) (of record) and Seth-Smith et al. (Seth-Smith) (4,890,321) (of record).

As to claim 1, while Goldstein discloses a terminal (column 33, lines 3-34), comprising:

an interface configured to receive a single signal comprising a composite data stream (column 16, lines 38-45);

program reception circuitry configured to extract and present audiovisual programs received in the composite data signal (Fig. 14; column 16, line 38-column 19, line 12);

a processor (FIG. 14);

a memory storing computer readable instructions, that when executed by the processor, cause the set top terminal to generate an electronic program guide for controlling display of content on a television screen (column 17, lines 1-19), he fails to specifically disclose a hardware upgrade port configured to receive upgrade circuitry that provides simultaneous access to audio programs received in the single signal composite data stream, wherein a presentation of the audio programs by the upgrade circuitry is independent from the presentation of the audiovisual programs.

In an analogous art, Graczyk discloses a system capable of receiving television signals and audio signals (column 2, lines 10-38) including audio circuits which are solely used for receiving audio signals (see Fig. 4) by providing audio circuitry through an audio expansion (upgrade) port (Fig. 1 and 4; column 10, line 33-column 11, line 44

and column 32, lines 62-66), wherein the audio is independent from and uncorrelated to the presentation of the audiovisual television programs (AM/FM radio for receiving unrelated broadcast radio signals; Fig. 4; column 10, lines 33-65), the audio is accessed simultaneously while the program extract from the television is being displayed (column 11, line 65-column 12, line 9 and column 13, lines 35-47) for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system (column 1, line 37-column 2, line 8).

Additionally, in an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received single television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) to allow the user to separately access a particular audio channel (such as accessing one preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to additional audio programming (column 14, lines 5-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Goldstein's system to include a hardware upgrade port configured to receive upgrade circuitry that provides simultaneous access to audio programs, wherein a presentation of the audio programs by the upgrade circuitry is

independent from the presentation of the audiovisual programs, as taught in combination with Graczyk, for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Goldstein and Graczyk's system to include means to separately access the audio while a program extracted from the single television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed, as taught in combination with Seth-Smith, for the typical benefit of allowing the viewer to select and listen to additional audio programming.

As to claim 2, Goldstein, Graczyk and Seth-Smith disclose wherein the plurality of menus of the guide further comprises:

an introductory menu that is displayed upon beginning use of the guide (local menu to perform initialization; see Goldstein at column 33, lines 11-34),

a home menu (master menu; column 34, lines 1-9);

a plurality of major menus displayed as menu options on the home menu (column 34, lines 6-19);

a plurality of sub-menus displayed as menu options on the plurality of major menus (column 34, line 67-column 35, line 59); and

a plurality of during programming menus enacted after selection of a program (additional information icons displayed during a program; column 14, lines 3-20),

wherein at least one of the plurality of menus comprises program control information received in the composite data stream (column 14, lines 3-20); and

As to claim 3, Goldstein, Graczyk and Seth-Smith disclose wherein the introductory menu automatically appears on the video screen when the terminal is turned on (see Goldstein at column 3, lines 11-16); and

wherein the computer readable instructions, when executed by the processor, further cause the terminal to:

generate a cursor highlight overlay to indicate the position of a cursor on at least one menu (see Goldstein at column 9, lines 24-43, column 34, lines 10-28);

move the cursor highlight overlay in response to a user selection (see Goldstein at column 9, lines 24-43, column 34, lines 10-28).

As to claim 4, Goldstein, Graczyk and Seth-Smith disclose wherein the introductory menu displays information or messages from a television delivery system operations center that provides programming (see Goldstein at column 33, lines 11-68).

As to claim 5, Goldstein, Graczyk and Seth-Smith disclose wherein the information or messages are directed to a particular subscriber (see Goldstein at column 20, lines 54-63).

As to claim 6, Goldstein, Graczyk and Seth-Smith disclose wherein the information or messages are directed to a group of subscribers (see Goldstein at column 20, lines 54-63).

As to claim 7, Goldstein, Graczyk and Seth-Smith disclose wherein the during program menus comprise hidden menus and program overlay menus (comprising overlaid icons and hidden embedded information; see Goldstein at column 14, lines 3-20).

7. Claims 22, 23 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker et al. (Banker) (5,477,262) (of record) in view of Benun (4,665,559) and Seth-Smith.

As to claims 22 and 23, while Banker discloses a terminal (Fig. 3, 300; column 10, lines 61-63) and corresponding method, comprising:

an interface configured to receive a signal comprising a composite data stream (column 10, line 61-column 11, line 22);

program reception circuitry configured to extract and present audiovisual programs and program control information received in the composite data stream (column 13, lines 2-59);

a processor (Fig. 3); and

memory storing computer readable instructions, that when executed by the processor (column 11, lines 32-59), cause the terminal to generate an electronic

program guide for controlling display of content on a video screen (column 11, lines 21-31), the guide comprising a plurality of menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), wherein at least one of the menus comprises program control information (column 12, line 48-column 13, line 13), he fails to specifically disclose a hardware upgrade port configured to interface to upgrade circuitry external to the terminal that provides simultaneous remote access to audio programs received in the composite data stream, wherein a presentation of the audio programs by the upgrade circuitry is independent from and uncorrelated to the presentation of the audiovisual television programs.

In an analogous art, Benun discloses a television distribution system (Fig. 1; column 2, lines 15-66) including a hardware upgrade port configured to interface to upgrade circuitry external to the terminal (Fig. 1) that provides simultaneous access to audio and video received in the stream (column 2, lines 42-54), wherein a presentation of the audio by the upgrade circuitry is independent from and uncorrelated to the presentation of the audiovisual television programs (column 2, lines 42-54) for the typical benefit of providing users a means to receive desired audio programming without forcing others to listen to the program (column 1, lines 13-27).

Additionally, in an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) to allow the user separate remote access a particular audio channel (such as accessing one

preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to additional audio programming (column 14, lines 5-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include a hardware upgrade port configured to interface to upgrade circuitry external to the terminal that provides simultaneous remote access to audio received in a data stream, wherein a presentation of the audio programs by the upgrade circuitry is independent from and uncorrelated to the presentation of the audiovisual television programs, as taught in combination with Benun, for the typical benefit of providing users a means to receive desired audio programming without forcing others to listen to the program.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker and Benun's system to include a composite data stream including audio programs and audiovisual programs, means to separately access the audio programs, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed, as taught in combination with Seth-Smith, for the typical benefit of allowing the viewer to select and listen to additional audio programming.

As to claim 30, Banker, Benun and Seth-Smith disclose wherein the external upgrade circuitry comprises a visual display separate from the video screen (Fig. 1).

As to claim 31, Banker, Benun and Seth-Smith disclose wherein the external upgrade circuitry is configured to receive commands from a separate remote control (Fig. 1).

As to claim 32, Banker, Benun and Seth-Smith disclose wherein the external upgrade circuitry is remotely coupled to the terminal (Fig. 1).

8. Claims 8-16 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker in view of Gibson (5,539,871) (of record), Graczyk and Seth-Smith.

As to claim 8, while Banker discloses a terminal (Fig. 3, 300; column 10, lines 61-63), comprising:

an interface configured to receive a signal comprising a composite data stream (column 10, line 61-column 11, line 22);

program reception circuitry configured to extract and present audiovisual programs and program control information received in the composite data stream (column 13, lines 2-59);

a processor (Fig. 3); and

memory storing computer readable instructions, that when executed by the processor (column 11, lines 32-59), cause the terminal to generate an electronic program guide for controlling display of content on a video screen (column 11, lines 21-31), the guide comprising:

a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), each corresponding to a level of interactivity and having one or more interactive menu items for selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

a main menu having one or more main menu items for selection (top menu; Fig. 7A), which main menu items correspond to the interactive menus (corresponding to the submenus; Fig. 7 and 7A; column 21, lines 34-45), wherein the menus are navigated (column 21, lines 34-43), with selection signals received from a user input (column 21, lines 34-43);

wherein at least one of the plurality of menus comprises the program control information (menu with video background; column 12, line 48-column 13, line 13) and

an overlay menu that is displayed during with a presented audiovisual program in response to a user selection received by the terminal (Figs. 7 and 7A; column 12, line 62-column 13, line 13 and column 21, lines 34-43), the overlay menu including interactive features (Fig. 7A), he fails to specifically disclose a hardware upgrade port configured to receive upgrade circuitry that provides simultaneous access to audio programs received in a single signal comprising the composite data stream, wherein a

presentation of the audio programs by the upgrade circuitry is independent from and uncorrelated to the presentation of the audiovisual television programs, wherein at least one of the menus comprises a plurality of audio choices for accessing the audio programs and a logo that is displayed with a presented audiovisual program in response to the presented audiovisual program having an interactive feature, wherein the logo indicates to a user that the interactive features are available for the program.

In an analogous art, Graczyk discloses a system capable of receiving television signals and audio signals (column 2, lines 10-38) including audio circuits which are solely used for receiving audio signals (see Fig. 4) by providing audio circuitry through an audio expansion (upgrade) port (Fig. 1 and 4; column 10, line 33-column 11, line 44 and column 32, lines 62-66), wherein the audio is independent from and uncorrelated to the presentation of the audiovisual television programs (AM/FM radio for receiving unrelated broadcast radio signals; Fig. 4; column 10, lines 33-65), the audio is accessed simultaneously while the program extract from the television is being displayed (column 11, line 65-column 12, line 9 and column 13, lines 35-47), providing a plurality of audio choices for accessing the audio (column 11, lines 20-43) for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system (column 1, line 37-column 2, line 8).

Additionally, in an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received single television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) to allow the user to separately access a particular audio channel (such as accessing one

preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to additional audio programming (column 14, lines 5-18).

Finally, in an analogous art, Gibson discloses a system wherein an interactive menu system for display on a television in conjunction with television programming (column 2, lines 10-27), wherein

a logo that is displayed on a display during a program having one or more interactive features (column 3, line 65-column 4, line 35 and column 6, lines 1-24);

a overlay menu that is displayed during the program (displayed list of choices; column 6, lines 51-56), the overlay menu including the interactive features (column 6, lines 53-62),

wherein the logo indicates to a user that the interactive features are available for the program (column 4, lines 7-35 and column 6, lines 1-24), and wherein the overlay menu is displayed in response to a signal received from a user input (column 6, line 38-56) for the typical benefit of allowing a user to elect to access additional information associated with a multimedia presentation (column 1, lines 39-63).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include a hardware upgrade port

configured to receive upgrade circuitry that provides simultaneous access to audio programs, wherein a presentation of the audio programs by the upgrade circuitry is independent from and uncorrelated to the presentation of the audiovisual television programs, wherein at least one of the menus comprises a plurality of audio choices for accessing the audio programs, as taught in combination with Graczyk, for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker and Graczyk's system to include means to separately access the audio while a program extracted from the single television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed, as taught in combination with Seth-Smith, for the typical benefit of allowing the viewer to select and listen to additional audio programming.

Finally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk and Seth-Smith's system to include a logo that is displayed on the television screen during one of the programs, which program has one or more interactive features, wherein the logo indicates to a user that the interactive features are available for the program, as taught in combination with Gibson, for the typical benefit of providing a user with a means to easily identify and access additional information related to a displayed video presentation.

As to claim 9, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the overlay menu includes menu options for a plurality of interactive features (see Banker at Figs. 7 and 7A and Gibson at column 5, lines 38-54 and column 6, lines 52-56).

As to claim 10, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the overlay menu further includes a menu option to return to the presented audiovisual program without the interactive features (see Banker at Fig. 7A and Gibson at column 6, lines 57-60 and Fig. 6, steps 610, 612 and 616).

As to claim 11, Banker, Graczyk, Seth-Smith and Gibson disclose a cursor that indicates one of the menu options (see Banker at column 21, lines 34-43 and Gibson at column 6, lines 51-56, column 4, lines 27-35 and column 3, lines 36-39), wherein the cursor is controlled by a user selection received by the set top terminal (see Banker at column 21, lines 34-43 and Gibson at column 4, lines 27-35 and column 3, lines 36-39).

As to claim 12, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the interactive features include facts related to the presented audiovisual program(see Gibson at column 4, line 65-column 5, line 5).

As to claim 13, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the guide further comprises a plurality of interactive submenus for use with the interactive features (see Banker at Figs. 7 and 7A and column 21, lines 34-43), which submenus

are displayed in response to a selection of the menu options received by the set top terminal (see Banker at column 21, lines 34-43).

As to claim 14, while Banker, Graczyk, Seth-Smith and Gibson discloses displaying a plurality of submenus (see Banker at Fig. 7A), they fail to specifically disclose wherein the submenus are displayed in a video window in a scaled down program video format.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to simultaneously display a reduced version of a menu with a plurality of selections on the same display as video programming, wherein the menu and video programming are each scaled to cover a smaller portion of the overall display to allow both to be fully displayed to the user at the same time, for the typical benefit of allowing a viewer to continue fully viewing a television program while navigating a menu and not miss any of the displayed video program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk, Seth-Smith and Gibson's system to include wherein the submenus are displayed in a video window in a scaled down program video format for the typical benefit of allowing a viewer to continue viewing a television program while navigating a menu and not miss any of the displayed video program.

As to claim 15, Banker, Graczyk, Seth-Smith and Gibson wherein the presented audiovisual television program and one or more of the submenus are displayed on the television at the same time (see Banker at column 12, line 63-column 13, line 13).

As to claim 16, Banker, Graczyk, Seth-Smith and Gibson wherein the logo is displayed as an overlay menu (overlaid button to select; see Gibson at column 4, lines 7-36).

As to claim 19, while Banker, Graczyk, Seth-Smith and Gibson disclose generating the overlay menu utilizing a set top converter (see Banker at column 12, lines 42-61), they fail to specifically disclose using data received during a vertical blanking interval.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize data from a vertical blanking interval, as receiving data during a vertical blanking interval at a set top terminal allows a cable headend or other programming provider to download additional data and information to a user's system, such as interactive information or data updates, for the typical benefit allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk, Seth-Smith and Gibson's system to include using data received during a vertical blanking interval for the typical benefit

allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

As to claim 20, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the logo is displayed in a corner of the screen of the television periodically for a specified duration (see Gibson at Fig. 3B, Fig. 4, step 408; column 5, lines 6-20).

As to claim 21, while Banker, Graczyk, Seth-Smith and Gibson disclose wherein the logo is displayed for a particular period of time (pertaining to periods of time an object is on the display; see Gibson at column 6, lines 10-18 and column 4, lines 7-26 and lines 45-54), they fail to specifically disclose displaying the logo for 15 seconds during a plurality of ten-minute segments of the presented audiovisual television program.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to display specific objects in a media presentation for at least 15 seconds during a plurality of ten-minutes segments of the program, such as the main character or object in a television program or movie, for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk, Seth-Smith and Gibson's system to include displaying the logo for 15 seconds during a plurality of ten-minute segments of

the program for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

9. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker, Graczyk and Benun, as applied to claim 23 above, and further in view of Gibson.

As to claim 24, while Banker, Graczyk and Benun disclose displaying the audiovisual television program on the screen, they fail to specifically disclose displaying during the program a logo indicating that interactive features are associated with the program.

In an analogous art, Gibson discloses a system wherein an interactive menu system for display on a television in conjunction with television programming (column 2, lines 10-27), wherein

a logo that is displayed on a display during a program having one or more interactive features (column 3, line 65-column 4, line 35 and column 6, lines 1-24);

a overlay menu that is displayed during the program (displayed list of choices; column 6, lines 51-56), the overlay menu including the interactive features (column 6, lines 53-62),

wherein the logo indicates to a user that the interactive features are available for the program (column 4, lines 7-35 and column 6, lines 1-24), and wherein the overlay menu is displayed in response to a signal received from a user input (column 6, line 38-

56) for the typical benefit of allowing a user to elect to access additional information associated with a multimedia presentation (column 1, lines 39-63).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk and Benun's system to include displaying during the program a logo indicating that interactive features are associated with the program, as taught by Gibson, for the typical benefit of providing a user with a means to easily identify and access additional information related to a displayed video presentation.

As to claim 25, Banker, Graczyk, Benun and Gibson disclose receiving from the user input device a signal associated with the logo (see Gibson at column 4, lines 7-36 and column 6, lines 5-10); and

displaying, in response to the signal, an overlay menu of the interactive features (see Gibson at column 6, lines 51-57).

10. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Banker, Graczyk, Seth-Smith and Gibson and further in view of Baji (5,027,400) (of record).

As to claim 27, while Banker, Graczyk, Dekker and Gibson disclose wherein the program control information comprises graphics and text (signals to generate the menus), they fail to specifically disclose wherein the program control information comprises video, graphics and text.

In an analogous art, Baji discloses a set top terminal which will receive signals to generate menus (column 20, line 3-column 23, line 65) including graphics, text *and* video (column 20, line 3-column 23, line 65, see Figs. 29A-31B, 36A-37) for the typical benefit of providing a visual operating environment having a high operability (column 20, lines 19-24) which would include information to allow the system to be used by those who are unfamiliar with the system (column 23, lines 7-41).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk, Dekker and Gibson's system to include wherein the program control information comprises video, graphics and text, as taught by Baji, for the typical benefit of providing a visual operating environment having a high operability which would include information to allow the system to be used by those who are unfamiliar with the system.

Response to Arguments

11. Applicant's arguments with have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the language a "single signal" cannot be read upon a plurality of different frequency modulated channels, and than indicates that applicant's specification provides support for this limitation in regards to a single signal including both audiovisual program and separately accessible audio programming.

However, none of the cited portions of applicant's specification support this assertion.

For example:

The citation on page 5 merely indicates that a composite data stream includes a plurality of signals.

There is no disclosure of transmitting audio-visual programming and the separately accessible audio programming together over the single signal.

The citation on page 10-11 merely indicates that a plurality of types of programming may be "packaged".

There is no disclosure of transmitting audio-visual programming and the separately accessible audio programming together over the single signal.

The citation on page 12 refers to a "signal" which is merely one of many transmitted (page 12, lines 9-15).

There is no disclosure of transmitting audio-visual programming and the separately accessible audio programming together over the single signal.

The citation on page 13 refers to plural signals being received at the headend.

There is no disclosure of transmitting audio-visual programming and the separately accessible audio programming together over the single signal.

The citation on pages 22 and 25 do not provide any specific support for transmitting audio-visual programming and the separately accessible audio programming together over the single signal, wherein the single signal does not include more than one transmission frequency.

Furthermore, it is noted that the usage of the word "signal" within the specification is not wholly consistent with itself or with applicant's arguments.

On page 20, lines 21-31, the specification discloses where the headend will receive the "entire satellite signal from the operations center 202". This *signal*, however, is made up of the entire bandwidth of programming, consisting of a plurality of frequency channels.

Additionally, it is noted that page 19, line 12-page 21, line 20 (Fig. 3a-c) discloses that the bandwidth/channel allocation is based upon programming type. Movies vs Sports vs HDTV are transmitted at different frequency channels.

Finally, while applicant's argues that a claim from parent application 07/991,074 supports this feature, there is no disclosure of transmitting *audio-visual* programming and the separately accessible *audio* programming together over the single signal.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Robbins (5,293,633)

Johnson et al. (5,282,028).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/

Primary Examiner, Art Unit 2424

JS